U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

March 17, 2017

By ECF

The Honorable Alison J. Nathan
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: United States v. Yuri Lebedev & Trevon Gross,
S6 15 Cr. 769 (AJN)

Dear Judge Nathan:

The Government writes to request modification of the defendants' conditions of release in light of the jury's verdict convicting the defendants on all counts.

Title 18, United States Code, Section 3143 governs release or detention of a defendant "who has been found guilty of an offense and who is awaiting imposition or execution of sentence." 18 U.S.C. § 3143(a)(1); *see also United States* v. *Bloomer*, 967 F.2d 761, 764 (2d Cir. 1992) (Section 3143 "bec[o]me[s] applicable the moment the jury verdict [is] returned by the jury to the judge in open court" (quotation marks omitted)). Once a defendant has been found guilty, "federal law disfavors release on bail" and accordingly "establishes a presumption in favor of detention." *United States* v. *Abuhamra*, 389 F.3d 309, 318, 319 (2d Cir. 2004). The Bail Reform Act "places the burden on the defendant to defeat that presumption." *Id.* at 320; *see also id.* at 319 ("[T]his burden is plainly substantial."). "To secure release on bail after a guilty verdict, a defendant must rebut this presumption with clear and convincing evidence that he is not a risk of flight or a danger to any person or the community." *Id.*; *see* 18 U.S.C. § 3143(a)(1) (providing that a convicted defendant "shall . . . be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c)").

Yuri Lebedev

After his arrest, defendant Yuri Lebedev was released on a set of conditions that includes a $25,000 bond co-signed by two financially responsible persons, travel restrictions, and the surrender of travel documents. (ECF No. 5-6). These conditions were imposed because the

Magistrate Judge found that they were necessary to assure the appearance of the defendant and protect the safety of the community. *See* 18 U.S.C. § 3142(b)-(c). Now that Lebedev has been convicted, he faces a statutory maximum sentence of 125 years' imprisonment. This potential "exposure to a lengthy imprisonment" creates an "incentive to flee," which "naturally bears upon and increases the risk of flight." *United States* v. *Madoff*, 316 F. App'x 58, 59 (2d Cir. 2009). An increase in the amount of the bond and the number of co-signers is warranted to address this increased risk of flight. The Government accordingly requests that the bond be increased to $250,000 and that three co-signers be required.

The Government also requests that these additional requirements be satisfied within one week, and that Lebedev's remaining conditions of release continue.

Trevon Gross

After his arrest, defendant Trevon Gross was released on a set of conditions that includes a $100,000 bond co-signed by one financially responsible person, travel restrictions, the surrender of travel documents, and the surrender of the defendant's firearms. (ECF No. 62-63). These conditions were imposed because the Magistrate Judge found that they were necessary to assure the appearance of the defendant and protect the safety of the community. *See* 18 U.S.C. § 3142(b)-(c). Now that Gross has been convicted, he faces a statutory maximum sentence of 35 years' imprisonment. As with his co-defendant, Gross's potential exposure to a lengthy imprisonment creates an incentive to flee that "naturally bears upon and increases the risk of flight." *United States* v. *Madoff*, 316 F. App'x at 59. Furthermore, Gross's repeated obstructive conduct prior to and during the trial—including his withholding of incriminating email accounts from the NCUA, his deletion of incriminating emails from his own account, and his perjured trial testimony—all show that he will do almost anything to avoid responsibility for his crimes and thus is a greater flight risk. *See United States* v. *Light*, 599 F. Supp. 874, 876 (E.D.N.Y. 1984) (reasoning that the defendant's "perjury at the trial of this case makes this court hesitate to rely on his assurances that he will not flee and will not engage in illegal transactions"); *cf. United States* v. *Dunnigan*, 507 U.S. 87, 97 (1993) ("[A] defendant who commits a crime and then perjures [him]self in an unlawful attempt to avoid responsibility is more threatening to society and less deserving of leniency than a defendant who does not so defy the trial process."). An increase in the amount of the bond and the number of co-signers is warranted to address this increased risk of flight. The Government accordingly requests that the bond be increased to $500,000 and that three co-signers be required.

In addition, the evidence at trial showed both (i) that Gross committed his crimes in part by having control of and access to the financial accounts of HOPE Cathedral and (ii) that some of the proceeds of the crimes went to HOPE Cathedral. Now that Gross has been convicted, there is a risk that Gross may move funds so as to prevent the Government from recovering such proceeds through forfeiture, take actions to prevent the Government from uncovering any other illicit conduct Gross may have engaged in involving those accounts, or engage in further misconduct using those accounts. *See Madoff*, 316 F. App'x at 59-60 (recognizing that under

Section 3143, a court may consider danger to another person or the community in the form of pecuniary or economic harm). The Government accordingly requests that the Court impose as a condition of his release that Gross give up any access he or members of his family might have to any financial accounts of HOPE Cathedral. *See* 18 U.S.C. § 3142(c)(1)(B)(xiv) (authorizing the Court to require the defendant to "satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community").

Finally, the Government requests that these additional requirements be satisfied within one week, and that Gross's remaining conditions of release continue.

Respectfully submitted,

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